

BRIAN D. SHAPIRO

E-filed: August 5, 2010

Trustee in Bankruptcy
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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In Re:

Chapter 7
Case No. 09-23934-MKN

MICHAEL G. PERUELO,

**TRUSTEE'S MOTION TO SELL NON-
EXEMPT ASSETS SUBJECT TO ANY
AND ALL LIENS AND ENCUMBRANCES**

Debtor(s).

Hearing Date: September 15, 2010
Hearing Time: 11:00 a.m.

BRIAN D. SHAPIRO, TRUSTEE respectfully moves this Court for an Order allowing the Trustee to sell the Estate's interest in Mohave County Parcels 313-44-306 and 313-44-307 commonly known as 7000 E. Concho Place and 7078 E. Concho Place, Kingman, Arizona 86401 (the "real property") subject to any and all liens and encumbrances, without warranty and in an "as is" condition to Marc Allen Lomibao Peruleo (the "Buyer"). This motion is based upon the following points and authorities, the pleadings and proceedings had herein, the Declaration of Brian D. Shapiro in Support and any oral argument this Court may permit.

/s/ Brian D. Shapiro
BRIAN D. SHAPIRO, TRUSTEE

MEMORANDUM OF POINTS AND AUTHORITIES

I. Statement of Facts

The following Facts are based upon the Declaration of Brian D. Shapiro, which is being filed contemporaneously with this motion.

1. On July 31, 2009 Debtor filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Nevada. Id.
2. On May 28, 2010 the case was converted to Chapter 7. Id.
3. Brian D. Shapiro was appointed as Chapter 7 Trustee. Id.
4. On July 12, 2010 Debtor testified at his 341 Meeting of Creditors that he transferred Mohave County Parcels 313-44-306 and 313-44-307 commonly known as 7000 E. Concho Place and 7078 E. Concho Place, Kingman, Arizona 86401, to his son Marc Allen Lomibao Peruelo. He further testified that the real property is owned free and clear of liens. Id.
5. The real property is valued at \$16,950.00 by the County Assessor, but the Trustee believes the actual “sale” value is substantially lower because vacant land in Mohave County is readily available for nominal amounts. Id.
6. The Trustee entered into a purchase agreement with Marc Allen Lomibao Peruelo to purchase the Estate’s interest for \$7,500.00. The Trustee has since received such funds. Id. A copy of the purchase agreement is attached to the Declaration of Brian D. Shapiro as Exhibit 1.

1 7. The Trustee has examined the value of the real property and believes that, based
2 upon the distressed real estate market, the purchase price is approximately equal to
3 its actual value. Id.

4 8. The Trustee also believes that it is in the best interest of the Estate to sell the real
5 property to Marc Allen Lomibao Peruelo. Id.
6

7 **II. Legal Argument**

8 STATEMENT OF LAW:

9 This Motion is brought pursuant to 11 U.S.C. § 548 wherein the Trustee may avoid
10 transfer of an interest of the debtor in property within two (2) years before the date of the filing
11 of the petition. This Motion is also brought pursuant to 11 U.S.C. §363 which provides:
12

13 (b)(1) The trustee after notice and a hearing, may use, sell, or lease,
14 other than in the ordinary course of business, property of the estate.

15 . . .

16 (f) The trustee may sell property under Section (b) or (c) of
17 this Section free and clear of any interest in such property of an
18 entity other than the estate, only if -

19 . . .

20 (3) Such interest is a lien and the price at which such property is to
21 be sold is greater than the aggregate value of all liens on such
22 property;

23 The Trustee believes that the proposed sale is in the best interest of the Estate, and that
24 considering the circumstances, the Estate is receiving fair and reasonable value for the assets
25 being sold.

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1 **III. Conclusion**

2 The Trustee respectfully requests this Court to approve the sale of the Real Property,
3 less costs of sale and commissions, authorizing the Trustee to sign any and all documents to
4 consummate the sale.

5 DATED this 5th day of August, 2010.

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7 /s/ Brian D. Shapiro
8 BRIAN D. SHAPIRO, TRUSTEE
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